

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:21-cr-00008-MR-WCM-1

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) ORDER
)
BRANDY MICHELLE FOHMAN,)
)
Defendant.)
)

THIS MATTER is before the Court on the Defendant's "Pro Se Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)." [Doc. 28].

By the present motion, the Defendant asks seeks relief under both Parts A and B of Amendment 821 to the U.S. Sentencing Guidelines. [Doc. 28]. Pursuant to 18 U.S.C. § 3582(c)(2), the Court may modify a term of imprisonment that was based on a sentencing range that has subsequently been lowered by the Sentencing Commission, "if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(2).

The Defendant is not entitled to relief under either part of Amendment 821. Part A of Amendment 821, effective November 1, 2023, amended U.S.S.G. § 4A1.1 to provide for the addition of one status point for

defendants with seven or more criminal history points who committed the offense of conviction while under a criminal justice sentence. U.S.S.G. § 4A1.1(e) (2023). Here, however, the Defendant was not assessed any status points under § 4A1.1. As such, Part A is inapplicable to her.

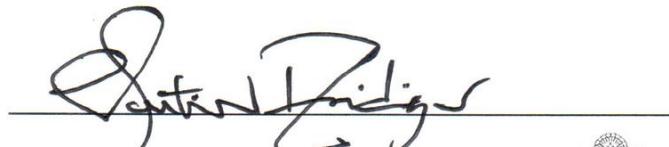
The Defendant also is not eligible for relief under Part B. That provision amended the offense-level calculation for offenders who did not receive any criminal history points. U.S.S.G. § 4C1.1 (2023). At the time of sentencing, the Defendant was assessed two criminal history points. As such, Part B of Amendment 821 is inapplicable to her as well.

For all of these reasons, the Defendant's motion is denied.

IT IS, THEREFORE, ORDERED that the Defendant's "Pro Se Motion for Modification of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)" [Doc. 28] is **DENIED**.

IT IS SO ORDERED.

Signed: April 22, 2024



Martin Reidinger
Chief United States District Judge
